

REMARKS / ARGUMENTS

The action by the Examiner of this application together with the cited references has been given careful consideration. Following such consideration, claim 2 has been cancelled and claim 1 has been amended to define more clearly the patentable invention the applicant believes is disclosed herein. This amendment is presented according to "Revised Amendment Practice" (37 C.F.R. 1.121), effective July 30, 2003. It is respectfully requested that the Examiner reconsider the claims in their present form, together with the following comments, and allow the application.

As the Examiner well knows, the present invention is directed to an apparatus for enabling an individual to remove a contact lens from a container without using his or her fingers. Typically, individuals use their fingers to remove a contact lens from its storage container. Problems that result from this practice include contaminating the contact lens with dirt or materials that may be transferred from the fingers to the contact lens, and causing the solution in the container to overflow.

In one embodiment of the present invention, the apparatus includes a hemispherical contact lens attaching portion having a hole formed through the bottom thereof. The hole through the hemispherical portion forms a ring-like band (referred to as an "annulus" in the prior art). According to the present invention, an "open portion 46," i.e. a gap, is formed in the ring-like band as best seen in FIG 4. The open portion is operable to prevent the formation of a water drop when the apparatus is used to remove a contact lens from its container.

It is respectfully submitted that none of the cited references teaches, suggests, or shows an apparatus for taking out a contact lens from its keeping container as presently set forth in the claims or the advantages thereof.

In response to the Examiner's rejections, claim 1 has been amended to read "said attaching portion having an open portion formed in a side of the hemisphere that has a hole formed therethrough." The claimed structure is operable to prevent the formation of water drops when removing the contact lens from the contact lens keeping container.

The Examiner has rejected claims 1 and 2 under 35 U.S.C. section 102(b) as being anticipated by U.S. Patent 3,132,887 to Martinez. The Martinez reference discloses an applicator for a contact lens. The applicator consists of three parts: a ring, a wand, and an annulus. The annulus is secured to the tip of the wand with the axis of the wand substantially constituting an extension of a diameter of the annulus and approximately in the plane thereof. The Martinez reference does not teach, suggest, or show the annulus having an *open portion* in a side thereof.

The Examiner has also rejected claims 1 and 2 under 35 U.S.C. section 102(b) as being anticipated by U.S. Patent 4,123,098 to Shoup. Shoup discloses a contact lens insertion and retraction device. The device includes a contact lens holder portion that includes a cup-shaped element connected to a connecting tubular member. The Examiner takes the position that element 30 in FIG. 2 shows an opening portion. The Applicant respectfully submits that element 30 shown in FIG. 2 is a structural element and not an open portion. According to the specification of the Shoup reference, "a diagonal blocking member 30 is located within and across a substantially semicircular-shaped cavity 32 located on the inner portion of the cup-shaped element 22" (column 3, lines 33-36). As further stated in the specification, the "function

of the diagonal blocking member 30 is to prevent a soft contact lens from being sucked down the tube formed by the tubular element 20" (column 3, lines 36-39). Accordingly, the Shoup reference does not teach, suggest, or show a contact lens attaching portion having an open portion in a side of the hemisphere that has a hole formed therethrough.

The Examiner has rejected claim 1 under 35 U.S.C. section 102(b) as being anticipated by U.S. Patent 4,088,359 to Buchanan, Jr. The Buchanan, Jr. reference discloses an instrument for use in mounting contact lenses in the eyes of a user. The instrument is comprised of a handle portion at each end of which is a lens holder. Each lens holder is a loop having a center opening. Neither lens holder has a contact lens attaching portion having an open portion in a side of the hemisphere that has a hole formed therethrough.

The prior art made of record and not relied upon has also been reviewed. It is respectfully submitted that none of these additional references teach or suggest the Applicant's invention as defined by the present claims.

In view of the foregoing, it is respectfully submitted that the present application is now in proper condition for allowance. If the Examiner believes there are any further matters that need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.

Application No. 10/688,315
Reply to the Office Action mailed July 14, 2004
Amendment filed October 13, 2004

If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0537, referencing our Docket No. YI8785US.

Respectfully submitted,



Mark Kusner, Reg. No. 31,115

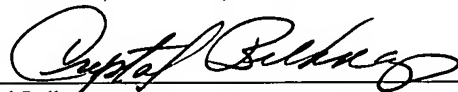
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I hereby certify that this correspondence (along with any paper referenced as being attached or enclosed) is being deposited on the below date with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: October 13, 2004



Crystal Belknap